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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/516,600

08/08/2005

Nicolas Aurio

8491-US

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7590

07/13/2009

Nestle HealthCare Nutrition
12 Vreeland Road, 2nd Floor, Box 697
Florham Park, NJ 07932

EXAMINER

KOSAR, AARON J

ART UNIT

PAPER NUMBER

1651

NOTIFICATION DATE

DELIVERY MODE

07/13/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

athena.pretory@us.nestle.com
patentdepartment@rd.nestle.com

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/516,600

Examiner

AARON J. KOSAR

Applicant(s)

AURIO ET AL.

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 26 February 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
 - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Christopher R. Tate/
Primary Examiner, Art Unit 1655

Continuation of 4(e) Other: In the instant case, amended claims 45-47 are inconsistent in their status identifiers and thus it is unclear if each of the claims should be identified as (Currently amended), (Withdrawn), or (Withdrawn-currently amended). Please note, a claim which depends from a withdrawn claim cannot have a status of (Currently amended) but rather (Withdrawn -- currently amended).

Also claims 52-55 were presented in the claims of 9/12/2008 as new claims. Since instantly presented claims 52-55 (method claims) do not correspond to previously presented claims 52-55 (composition claims); because there is no clear indication or direction to cancel previously presented claims 52-55; and also because there are no markings (strike-through, underlining, etc.) indicating any changes to the claims text, then it appears that the instantly presented claim listing is also an incomplete claim listing. see 37 CFR 1.121 (c) through (c)(4).

Accordingly, the claims have not been entered. Also, please note that subsequent amendments to the claims should be made relative to the claim set of 9/12/2008.